

173418

2005-2-E-187

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2005-2-E

APRIL 1, 2005

IN RE:

South Carolina Electric & Gas Company -  
Annual Review of Base Rates for  
Fuel Costs

SETTLEMENT AGREEMENT

This Settlement Agreement is made by and among the Office of Regulatory Staff of South Carolina ("ORS"), South Carolina Energy Users Committee ("SCEUC"), SMI Steel-South Carolina ("SMI Steel") and South Carolina Electric & Gas Company ("SCE&G") (collectively referred to as the "Parties" or sometimes individually as a "Party").

WHEREAS, the above-captioned proceeding has been established by the South Carolina Public Service Commission ("Commission") pursuant to the procedure established in S.C. Code Ann. §58-27-865 (Supp. 2004), and the Parties to this Settlement Agreement are parties of record in the above-captioned docket. There are no other parties of record in the above-captioned proceeding;

WHEREAS, the Parties have varying legal positions regarding the issues in this case;

WHEREAS, the Parties have engaged in discussions, most recently on March 29, 2005, to determine if a settlement of the issues would be in their best interest;

WHEREAS, following those discussions the Parties have each determined that their interest and the public interest would be best served by settling all issues pending in the above-captioned case under the terms and conditions set forth below:

1. The Parties agree to stipulate into the record before the Commission the pre-filed direct testimony of ORS witnesses A.R. "Randy" Watts and Jacqueline R. Cherry, without objection, change, amendment or cross-examination. The Parties agree that no other evidence will be offered in the proceeding by the Parties other than this Settlement Agreement.

2. As a compromise to positions advanced by ORS, SCEUC, SMI Steel and SCE&G, all Parties agree to the proposal recommended to the Commission by witness Watts on behalf of ORS in his pre-filed testimony in the above docket. This position is set out immediately below and is hereby adopted, accepted and acknowledged as the agreement of the Parties:

ORS recommends that an amount equal to the under recovery be levelized over a two year period. This recommendation is based on several factors. As mentioned previously, the Company's projected total average coal costs for 2005 and 2006 are relatively level and then increase in 2007. The third year is accompanied by more uncertainty in the projections. ORS's recommendation will help stabilize the factor and tend to minimize fluctuations while affording the opportunity to review costs and operational data at succeeding fuel review proceedings.

While ORS recognizes that S.C. Code Ann. §58-27-865(B) indicates that any under recovery should be recovered during the next twelve months, ORS also recognizes that the Commission previously allowed an amortization of an under recovery over a two year period. See Commission Order No. 2001-397 issued in Docket No. 2001-2-E, SCE&G – Annual Review of Base Rates for Fuel Costs. In addition, ORS is charged with the duty to represent the public interest of South Carolina pursuant to S.C. Code §58-4-10(B) (added by Act 175), and ORS believes such a two year levelizing period would serve the public interest. S.C. Code §58-4-10(B)(1) through (3) reads in part as follows:

“...‘public interest’ means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services."

This two year levelization period would balance concerns of the using public while preserving the financial integrity of the Company. ORS also believes a two year levelization period would not inhibit economic development.

ORS also recommends that the first dollars recovered in the succeeding twelve months beginning May 2005 be applied to the under recovery so that in the next fuel proceeding for the Company any under recovery will be for the period May 2005 to May 2006. This will serve to protect the integrity of the statutory scheme as well as the financial integrity of the Company.

3. For purposes of this Settlement Agreement, all Parties agree that the appropriate fuel factor for SCE&G to charge for the period beginning with the first billing cycle in May 2005 extending through the last billing cycle of April 2006 is 2.256 cents per kwh.

4. ORS agrees to conduct a review and study of SCE&G's fuel purchasing methods. The ORS study is to include the forecasted months of February, March and April 2005 and will continue through at least the 2005 summer peaking months before a recommendation is made based on its findings. ORS will have complete and total control and responsibility over the methods and procedures that it may employ to conduct its review, but agrees to meet with any Party requesting such a meeting at the outset of its review to receive suggestions, input and ideas regarding the scope and details of the review. ORS requests that Parties provide suggestions, input and ideas, preferably in writing, as early as possible, but will not impose a deadline for receiving such information. In addition, ORS has agreed that it will hold meetings with any Party or its expert(s), at the request of such Party, during the progress of its review to receive

interim comments or suggestions regarding the status, focus and scope of its review. At the completion of its review, ORS agrees to issue a written report which will set forth its findings and conclusions. A report setting forth the ORS findings will be issued before December 31, 2005. A copy of the report will be provided to the Parties upon its completion, and ORS agrees to meet with any party or parties to discuss the report.

Specifically, the study will focus on and examine alternative procurement methods for natural gas used in electric generation at the Company's major gas-fueled powered plants, located at Urquhart and Jasper, South Carolina. A comprehensive study of coal and coal transportation will also be included. This study and analysis will include, but not be limited to, the following subject matters with respect to fuel purchasing methods:

**Gas**

- Review alternatives to current fuel procurement practices of natural gas for Jasper and Urquhart combined cycle electric generating facilities.

**Coal and Coal Transportation**

- Alternative Transportation Modes in Lieu of Existing Railroads;
- Alternative Sourcing of Coal;
- Term of Coal Contracts;
- Mixture of Coal Contracts;
- Inventory Storage;
- Mine Visits to Major Producers/Suppliers;
- Meetings with CSX and Norfolk Southern;
- Use of Private (Company Owned/Leased) Rail Cars; and,
- Open Access of Rail Lines in United States.

**Other**

- Purchasing of Purchased Power;
- Fuel Mix (relative proportions of gas-fired generation, coal-fired generation and purchased power); and
- Overall Management Philosophy, and Established Policies and Procedures, Followed in: (i) Generation Planning, and (ii) Fuel Procurement.

5. SCE&G agrees to cooperate in good faith with ORS in its conduct of its review of SCE&G's fuel purchasing by providing information to ORS in a prompt and reasonable manner as such information is requested. Confidential information will be protected by ORS under the terms of a confidentiality agreement, to be negotiated between ORS and SCE&G and duly executed prior to the release of confidential information. SCE&G also agrees that ORS may make available to SCEUC and SMI Steel for review and copying any information made available to ORS by SCE&G for this review subject to SCEUC and SMI Steel executing a confidentiality agreement with SCE&G and ORS containing the same or substantially similar terms and conditions as agreed to by ORS, if they desire to have access to confidential information. SMI and SCEUC understand they may not solicit information directly from SCE&G under the auspices of ORS's study.

6. The Parties agree that any and all challenges to SCE&G's fuel costs for the period prior to January 31, 2005, are specifically discharged, waived, and not subject to further review. Fuel cost for periods beginning on February 1, 2005 and thereafter shall be open issues for determination by the Commission in future fuel costs proceedings held under the procedure and criteria established in S.C. Code Ann. §58-27-865 (Supp. 2004).

7. The Parties agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission as a fair, reasonable and full resolution of all issues currently pending in the above-captioned proceeding. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

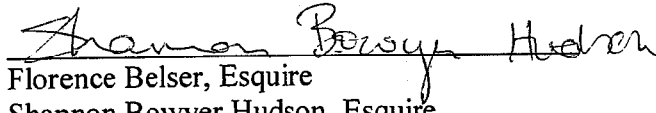
8. This written Settlement Agreement contains the complete agreement of the Parties. There are no other terms and conditions to which the Parties have agreed. This agreement integrates all discussions had among the Parties into the terms of this written document. The Parties agree that by signing this Settlement Agreement, it will not constrain, inhibit or impair their arguments or positions held in future proceedings. If the Commission should decline to approve the agreement in its entirety, then any Party desiring to do so may withdraw from the agreement without penalty.

9. This agreement shall be interpreted according to South Carolina law.

The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement.

WE AGREE:

**Representing and binding the Office of Regulatory Staff**

  
Florence Belser, Esquire  
Shannon Bowyer Hudson, Esquire

**Office of Regulatory Staff**  
1441 Main Street, Suite 300  
Columbia, SC 29201  
Phone: (803) 737-0853  
Fax: (803) 737-0800  
Email: [fbelser@regstaff.sc.gov](mailto:fbelser@regstaff.sc.gov)

WE AGREE:

**Representing and binding South Carolina Energy Users Committee**

---

Scott Elliot, Esquire  
**Elliot & Elliot, P.A.**  
721 Olive Street  
Columbia, SC 29205  
Phone: (803) 771-0555  
Fax: (803) 771-8010  
Email: [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us)

WE AGREE:

**Representing and binding SMI Steel**

---

John F. Beach, Esquire  
John Julius Pringle, Jr., Esquire  
**Ellis, Lawhorne & Sims, P.A.**  
Post Office Box 2285  
Columbia, SC 29202  
Phone: (803) 779-0066  
Fax: (803) 799-8479  
Email: [jbeach@ellislawhorne.com](mailto:jbeach@ellislawhorne.com)

WE AGREE:

**Representing and binding the Office of Regulatory Staff**

---

Florence Belser, Esquire  
Shannon Bowyer Hudson, Esquire  
**Office of Regulatory Staff**  
1441 Main Street, Suite 300  
Columbia, SC 29201  
Phone: (803) 737-0853  
Fax: (803) 737-0800  
Email: [fbelser@regstaff.sc.gov](mailto:fbelser@regstaff.sc.gov)

WE AGREE:

**Representing and binding South Carolina Energy Users Committee**



---

Scott Elliot, Esquire  
**Elliot & Elliot, P.A.**  
721 Olive Street  
Columbia, SC 29205  
Phone: (803) 771-0555  
Fax: (803) 771-8010  
Email: [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us)

WE AGREE:

**Representing and binding SMI Steel**

---

John F. Beach, Esquire  
John Julius Pringle, Jr., Esquire  
**Ellis, Lawhorne & Sims, P.A.**  
Post Office Box 2285  
Columbia, SC 29202  
Phone: (803) 779-0066  
Fax: (803) 799-8479  
Email: [jbeach@ellislawhorne.com](mailto:jbeach@ellislawhorne.com)



WE AGREE:

**Representing and binding the Office of Regulatory Staff**

---

Florence Belser, Esquire  
Shannon Bowyer Hudson, Esquire  
**Office of Regulatory Staff**  
1441 Main Street, Suite 300  
Columbia, SC 29201  
Phone: (803) 737-0853  
Fax: (803) 737-0800  
Email: [fbelser@regstaff.sc.gov](mailto:fbelser@regstaff.sc.gov)

WE AGREE:

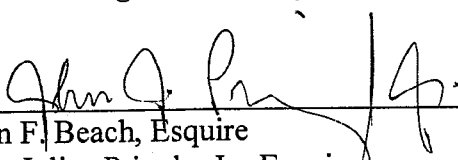
**Representing and binding South Carolina Energy Users Committee**

---

Scott Elliot, Esquire  
**Elliot & Elliot, P.A.**  
721 Olive Street  
Columbia, SC 29205  
Phone: (803) 771-0555  
Fax: (803) 771-8010  
Email: [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us)

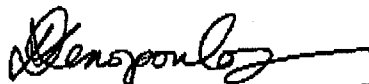
WE AGREE:

**Representing and binding SMI Steel**



---

John F. Beach, Esquire  
John Julius Pringle, Jr., Esquire  
**Ellis, Lawhorne & Sims, P.A.**  
Post Office Box 2285  
Columbia, SC 29202  
Phone: (803) 779-0066  
Fax: (803) 799-8479  
Email: [jbeach@ellislawhorne.com](mailto:jbeach@ellislawhorne.com)



---

Damon E. Xenopoulos, Esquire  
**Brickfield, Burchette, Ritts & Stone, P.C.**  
1025 Thomas Jefferson Street, NW  
Eighth Floor – West Tower  
Washington, DC 20007  
Phone: (202) 342-0800  
Fax: (202) 342-0807  
Email: [dex@bbrslaw.com](mailto:dex@bbrslaw.com)

WE AGREE:

**Representing and binding South Carolina Electric & Gas Company**

---

Mitchell Willoughby, Esquire  
Randolph R. Lowell, Esquire  
**Willoughby & Hoefer, P.A.**  
Post Office Box 8416  
1022 Calhoun Street, Suite 302  
Columbia, SC 29202-8416  
Phone: (803) 252-3300  
Fax: (803) 256-8062  
Email: [mwilloughby@willoughbyhoefer.com](mailto:mwilloughby@willoughbyhoefer.com)

---

Catherine D. Taylor, Esquire  
**SCANA Corporation**  
1426 Main Street, 13<sup>th</sup> floor  
Columbia, SC 29201  
Phone: (803) 217-9356  
Fax: (803) 217-7931  
Email: [cdtaylor@scana.com](mailto:cdtaylor@scana.com)

---

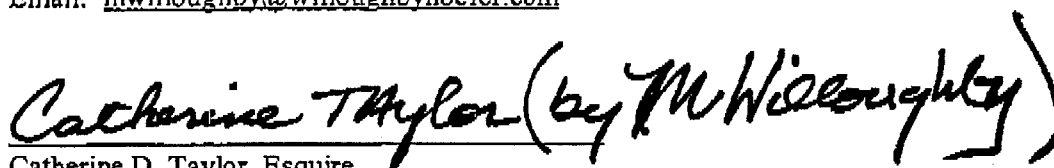
Damon E. Xenopoulos, Esquire  
**Brickfield, Burchette, Ritts & Stone, P.C.**  
1025 Thomas Jefferson Street, NW  
Eighth Floor – West Tower  
Washington, DC 20007  
Phone: (202) 342-0800  
Fax: (202) 342-0807  
Email: [dex@bbrslaw.com](mailto:dex@bbrslaw.com)

WE AGREE:

Representing and binding South Carolina Electric & Gas Company



Mitchell Willoughby, Esquire  
Randolph R. Lowell, Esquire  
**Willoughby & Hoefer, P.A.**  
Post Office Box 8416  
1022 Calhoun Street, Suite 302  
Columbia, SC 29202-8416  
Phone: (803) 252-3300  
Fax: (803) 256-8062  
Email: [mwilloughby@willoughbyhoefer.com](mailto:mwilloughby@willoughbyhoefer.com)



Catherine D. Taylor, Esquire  
**SCANA Corporation**  
1426 Main Street, 13<sup>th</sup> floor  
Columbia, SC 29201  
Phone: (803) 217-9356  
Fax: (803) 217-7931  
Email: [cdtaylor@scana.com](mailto:cdtaylor@scana.com)